

### **Remarks**

Upon entry of the foregoing amendment, claims 26-34, 36-39, 43, 56, 59, and 61-66 are pending in the application.

### **Amendments**

Claims 26 and 56 have been amended to specify that the reservoir contents is or includes a sensor or biosensor which measures intrinsic electrical signals or loads on tissue structures *in vivo*. Claims 36 and 61 have been amended for consistency with their parent claims. Claims 35, 52, 57, 58, and 60 have been canceled without prejudice. New claims 62-66 have been added. Support for the amendments is found at least at page 14, line 13 to page 15, line 12; page 10, line 30 to page 11, line 6; and page 12, lines 19-20.

### **Rejections Under 35 U.S.C. § 103**

Claims 26-39, 43, 52, and 56-61 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 5,989,445 to Wise et al. (hereinafter "Wise") in view of U.S. Patent 6,289,237 to Mickle et al. (hereinafter "Mickle"). Claims 26-39, 43, 52, and 56-61 also were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,123,861 or U.S. Patent 5,797,898 to Santini et al. (hereinafter "the Santini patents") in view of Mickle. Claims 26-39, 43, 52, and 56-61 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,908,770 to McDevitt et al. (hereinafter "McDevitt") in view of Mickle. Claims 26-39, 43, 52, and 56-61 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,730,072 to Shawgo et al. (hereinafter "Shawgo") in view of Mickle. These rejections are respectfully traversed if applied to the claims as amended.

Wise

Applicants disagree with the Examiner's mischaracterization of Wise: Wise clearly does not "disclose the claimed invention except for a telemetry system," because Wise fails to disclose a microchip device that includes the *means for selectively controlling exposure of said reservoir contents* described in the present application. In particular, Wise clearly does not teach opening a reservoir in the device by directing electrical power to a reservoir cap to disintegrate the reservoir cap to expose the reservoir's contents. Furthermore, Wise clearly does not disclose or suggest that the reservoir contents located in the reservoirs should or could include a *sensor*.

The Santini Patents

The Santini Patents disclose a multi-reservoir device, which can be used for controlled release of chemical molecules, such as a drug formulation. However, the Santini Patents do not teach that the reservoir contents located in the reservoirs should or could include a *sensor*.

Shawgo

As previously explained, Shawgo is not prior art to that which is claimed by Applicants. The present application has benefit to October 10, 2000. However, the Shawgo *Non-Provisional* Application 09/867,976 was not filed until later (May 30, 2001). While the Shawgo *Provisional* Application 60/207,814 was filed earlier (May 30, 2000), that earlier filing plainly fails to disclose or suggest a telemetry system for the wireless transfer of data between the microchip device and a remote controller, wherein the telemetry system transmits data from the microchip device to the remote controller. Moreover, the Shawgo *Provisional* Application clearly fails to disclose or suggest that the reservoir contents located in the reservoirs should or could include a *sensor*.

McDevitt

McDevitt fails to disclose a microchip device that includes the *means for selectively controlling exposure of said reservoir contents* described in the present application. In particular, McDevitt clearly does not teach opening a reservoir in the device by directing electrical power to a reservoir cap to disintegrate the reservoir cap to expose the reservoir's contents. Furthermore, McDevitt clearly fails to disclose or suggest a sensor for measuring intrinsic electrical signals or loads on tissue structures *in vivo*.

Mickle, Alone or in Combination with the Foregoing Prior Art References

At the time of Applicants' invention, one of ordinary skill in the art would not have been motivated to combine Mickle with Wise, the Santini Patents, Shawgo, or McDevitt. However, even if combined, the artisan of ordinary skill would not have been motivated to make the required adaptations from these references to derive the Applicants' presently claimed systems.

Even if the references were combined, no combination teaches the presently claimed systems. In particular, the references fail to teach a device having reservoirs that contain a sensor for measuring intrinsic electrical signals or loads on tissue structures *in vivo* and Applicants' means for controlling exposure of the sensors.

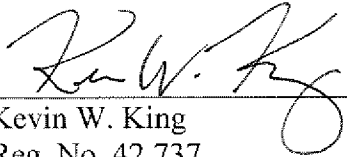
**Conclusions**

For the foregoing reasons, Applicants submit that the claims as amended are patentable over the prior art of record. Allowance of claims 26-34, 36-39, 43, 56, 59, and 61-66 is therefore earnestly solicited.

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AMENDMENT &  
RESPONSE TO OFFICE ACTION

The undersigned respectfully invites the Examiner to contact him by telephone (404.853.8068) if any outstanding issues can be resolved by conference or examiner's amendment.

Respectfully submitted,

  
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